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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,134	05/11/2006	Kim Albech Sorensen	PATRADE	6311

7590 09/14/2010
James C Wray
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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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09/14/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,134	Applicant(s) SORENSEN ET AL.	
	Examiner TAN LE	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the species I, Figures 4, 6, 11, and claims 1-7 in the reply filed on 7/01/2010 is acknowledged.

At the outset, it should be noted that the requirement set forth is one of an election between species not a restriction between inventions. As such, any arguments with respect to "inventions" are considered to be not persuasive.

With respect to "species", Applicants elected the Species I with traverse but did not state the ground of traversal as why the Species I is not patentably distinct over Species II, III and IV and provide the reason why there is not a serious burden in searches. Accordingly, applicant has failed to state the position as why the species are not patentably distinct. As the results, the Species I is being examined as without traverse.

Currently claims 1-4 and 6 are readable to the elected species. Claim 5 calls for "the front side of the plate being provided with an image..." and claim 7 calls for "the plate are formed on angular reinforcement sections fastened over the length of the plate", both are directed to Species IV (examples of Figures 37-38) and Species II (example of Figures 22-23), respectively.

Accordingly, claims 5, 7 and 8-10 are withdrawn from further consideration by the Examiner, 37 CFR 1.142 (b), as being drawn to a non-elected species.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7//27/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 are rejected because they are unclear which structure(s) defines the means plus the functional language as claimed in claim 1. Note that "if one employs means-plus-function language in a claim, one must set forth in the

specification an adequate disclosure showing what is meant by that language.” In re Donaldson Co. Inc., 29 USPQ2d 1845, 1850 (CAFC 1994) and In re Dossel, 42 USPQ2d 1881, 1884 (CAFC 1997).

Applicants has generally described in the specification and claimed that the plate is provided at its front side with grooves...communicate with holes that open on the backside.. and then further defined “ the plate has a back side on which mounting means of the plate are disposed...” but it is not clear which structure(s) defines the means plus the functional language (means for mounting suspension fittings) (line 2) and/or the “mounting means” (line 10) alone as specifically claimed in claim 1.

Since the claims are unclear which structure corresponds to the “means” (means for mounting suspension fittings). The rejection will be based upon the broadest reasonable claim interpretation set forth below:

Claims 1-4 and 6 are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear whether “the mounting means (line 10) is the same as “means for mounting suspension fittings” (line 2) as recited in claim 1.

With respect to claim 6, the use of “and/or” is improper which renders the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent no. 3,306,564 to Nickel in vie w of EP patent no. 0683,998 to Carlin (of record)

As to claims 1-2, Nickel discloses a perforated wallboard which is especially channeled to provide functional and decorative, comprising a plate (11, 12) with means for mounting suspension fittings (20) which plate is provided at its front side with grooves (15) that along a part of their extension communicate with holes (14) that open on the back side, as the suspension fittings 20 are mounted extending through a hole (14) for supporting with a first support member 21 on the back side and with a second support member 22 supporting against the bottom of the groove side and which plate has a front side from which the suspension fittings 23 are projecting.

Nickel, however is silent about the mounting means on the back side of the plate which interact with coupling means on a support.

Carlin teaches about the mounting means (Figs 3, 5-7), for example) on the back side of the plate which interact with coupling means on a support (see mounting means 3 directly to wall 1) or (mounting grooves 32 mount on coupling projections 29 of support 28 and 30, figs 6-7).

To provide the plate of Nickel with mounting means such as screw or on backside which interact with coupling means (holes) on a support would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Carlin. One of ordinary skill in the art would have been motivated to do so in order allow the plate to securely mount to the support.

As to claim 3, Nickel in view of Carlin also teaches that the plate is formed as a laminated sheet with the grooves formed between juxtaposed elongated front side plates.

As to claim 4, Nickel in view of Carlin discloses the claimed invention except for the width and the depth of the grooves and the spacing between juxtaposed grooves as specifically recited in claim 4.

It would have been an obvious matter of design choice to provide such variations of size/dimensions with respect to width and depth since such a modification would have involved a mere change in size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

As to claim 6, Carlin also teaches the coupling means of the support and/or plate including interacting hook-shaped projections (see 29, 32 on figs 6-7).

To provide the plate of Nickel with coupling means on the support and/or plate including interacting hook-shaped projections would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Carlin. One of ordinary skill in the art would have been motivated to do so in order to make it easier to perform the mounting as well as to make it easier to remove and remount to the support.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN LE whose telephone number is (571)272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on (571) 272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tan Le/
Examiner, Art Unit 3632